

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: VALSARTAN PRODUCTS
LIABILITY LITIGATION**

HON. ROBERT B. KUGLER

THIS DOCUMENT RELATES TO
ALL ACTIONS

CIVIL NO. 19-2875 (RBK/JS)

**CASE MANAGEMENT ORDER NO. _____
(Direct Filing – Stipulated)**

I. SCOPE OF THE ORDER

This Stipulated Order shall govern the direct filing of cases into MDL No. 2875. The Order applies only to claims brought by a U.S. citizen or resident based on usage or purchase of generic formulations of Valsartan medications allegedly containing nitrosamine impurities NDMA and/or NDEA.

II. DIRECT FILING OF CASES INTO MDL NO. 2875

A. In order to eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, any plaintiff whose case would otherwise be subject to transfer to MDL No. 2875, pursuant to 28 U.S. Code § 1407 and the Judicial Panel on Multidistrict Litigation's February 14, 2019 Transfer Order (Doc. 229), may hereinafter file his or her complaint against all Defendants directly in MDL No. 2875 in the District of New Jersey.¹ Any plaintiff who files a complaint in accordance with this direct filing Order prior to the Court's approval of the short form complaint will be required to file a short form complaint within 30 days of the court's approval of the short form complaint.

¹ To the extent any Plaintiff has attempted to direct file a case into this MDL in the District of New Jersey prior to the execution of this Order, such direct filings are not authorized and will be dismissed without prejudice if not refiled pursuant to the terms of this Order.

Defendants' obligation to answer, move, or otherwise respond to direct filed complaints shall be stayed pending further order, and all objections and affirmative defenses are preserved by Defendants.

B. All Defendants stipulate and agree that they will not assert any objection of improper venue in the District of New Jersey for pretrial proceedings pursuant to Fed. R. Civ. P. 12(b) as to any Valsartan-related cases filed directly in the District of New Jersey that emanate from districts outside the District of New Jersey and that are filed in this multidistrict litigation proceeding. (However, the Parties reserve the right to oppose and object to any improper venue proposed for trial pursuant to 28 U.S. Code §§ 1391 and 1406(a)).

C. Each case filed directly in MDL No. 2875 that emanates from a district outside the District of New Jersey will be filed in MDL No. 2875 solely for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's February 14, 2019 Transfer Order. The Parties do not waive their rights to the transfer any case in this MDL to a court of proper venue under 28 U.S.C. §§ 1391 and 1406(a) and *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. (1998) upon completion of pretrial proceedings.

D. For cases directly filed in this MDL, the complaint should include: (1) a statement indicating that it is being filed in accordance with this Stipulated Order and (2) a designation of venue, which will be the presumptive place of remand absent an agreement otherwise among the Parties or a determination by the Court that the place of remand should be elsewhere based upon good cause.

E. Upon completion of all pretrial proceedings applicable to a case directly filed in this Court pursuant to this Order, this Court, pursuant to 28 U.S.C § 1404(a), will transfer that case to the federal district court in the district of proper venue as defined by 28 U.S.C. § 1391,

after giving the parties an opportunity to meet and confer and be heard on the issue. Defendants preserve all objections and affirmative defenses of improper venue and lack of personal jurisdiction as to Plaintiffs' designation. The Court will determine any venue challenges, objections or disputes at the conclusion of pretrial proceedings when the case is ripe for remand for trial.

F. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed pursuant to this Order in this District.

G. The inclusion of any action *In re: Valsartan Products Liability Litigation*, MDL No. 2875, whether such action was or will be filed originally or directly in the District of New Jersey, shall not constitute a determination by this Court that jurisdiction or venue is proper in this district.

H. All Parties stipulate and agree that the direct filing of a case in MDL No. 2875 pursuant to this Order will have no impact on choice of law that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.

I. All Defendants stipulate and agree that the filing of a complaint directly in MDL No. 2875 pursuant to this Order shall stop the running of any statute of limitations or prescriptive or preemptive period as if the complaint had been filed in an appropriate venue.

J. The references to "all Defendants" herein shall not constitute an appearance by or for any Defendant not properly served.

K. The caption for any complaint that is directly filed in MDL No. 2875 before this Court shall bear the following caption:

**IN RE: VALSARTAN PRODUCTS
LIABILITY LITIGATION**

VS.

Civil Action No: _____

ADMIN 35060720v1